

Remarks

Claims 10-13, 16-22, and 24 are pending in the instant application. In the Office Action mailed December 18, 2009, the Examiner rejects claims 10-13, 16-22 and 24. Based on the remarks made herein, Applicants respectfully request the rejections be withdrawn and that the application be passed to allowance.

Pursuant to 37 C.F.R. 1.111, reconsideration of this application is respectfully requested in view of the following response.

Response to Rejections

By way of the Office Action mailed December 18, 2009, claims 10 – 13, 16 - 22 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 4,886,513 to Mason, Jr. et al. (hereinafter "Mason") in view of U.S. Patent Number 4,879,170 to Radwanski et al. (hereinafter "Radwanski") and further in view of U.S. Patent Number 6,015,934 to Lee et al. (hereinafter "Lee"). This rejection is respectfully traversed to the extent that it may apply to the present claims.

In order to establish a prima facie case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. The application of the "teaching, suggestion, or motivation" (TSM) test is not "rigid." However, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) (emphasis added).

Independent claims 10, 16, and 22 of the present invention relate to an absorbent article that resists permanent creasing. The absorbent article includes a packaging component and an absorbent core. The absorbent core includes a body-side absorbent layer that

includes open cell foam and a garment-side absorbent layer that includes elastic coform. The absorbent core resists permanent creasing when subjected to the folded condition and released to the unfolded condition.

Applicants respectfully submit that no *prima facie* case of obviousness has been established because the Examiner has not shown that each of the claim limitations is taught or suggested by Mason, Radwanski, and Lee, alone or in combination.

The independent claims of the present invention require, *inter alia*, an absorbent core including a body-side absorbent layer that includes open cell foam and a garment-side absorbent layer that includes elastic coform. The Examiner acknowledges that Mason fails to disclose the specific absorbent structure claimed. To cure this defect, the Examiner adds Radwanski and states that "Radwanski teaches an absorbent core including the components as claimed" and "Radwanski uses the specifically claimed materials in order to provide a material with increased web strength and integrity as taught by Radwanski in the abstract." (Office Action at page 5).

Applicants respectfully note that the abstract of Radwanski fails to teach or suggest a two layer absorbent core comprising a body-side absorbent layer made of open cell foam and a garment-side absorbent layer made of elastic coform as required by the claims. While Radwanski does mention foams in column 15, Radwanski does not teach an absorbent core having a body-side absorbent layer comprising open cell foam and a garment-side absorbent layer comprising elastic coform wherein the absorbent core has the claimed resistance to permanent creasing. Therefore, no *prima facie* case of obviousness has been established because the Examiner has not met the burden of showing that the prior art references teach or suggest all the claim limitations.

The Examiner adds Lee for its teaching of a packaging component not to cure the defect noted above. Thus, Applicants respectfully request that this rejection be withdrawn for at least this reason.

By way of the Office Action mailed December 18, 2009, claims 10 – 13, 16 - 22 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Application Number US 2003/0114805 A1 to Rainville-Lonn et al. (hereinafter "Rainville-Lonn") in view of Radwanski and in further view of Lee. This rejection is respectfully traversed to the extent that it may apply to the present claims.

Applicants respectfully submit that no *prima facie* case of obviousness has been established because the Examiner has not shown how each of the claim limitations is taught or suggested by Rainville-Lonn, Radwanski, and Lee, alone or in combination.

As discussed above, independent claims 10, 16, and 22 of the present invention require, *inter alia*, an absorbent core including a body-side absorbent layer that includes open cell foam and a garment-side absorbent layer that includes elastic coform. The Examiner acknowledges that Rainville-Lonn fails to disclose the specific absorbent structure claimed. To cure this defect, the Examiner adds Radwanski and states that "Radwanski teaches an absorbent core including the components as claimed" and "Radwanski uses the specifically claimed materials in order to provide a material with increased web strength and integrity as taught by Radwanski in the abstract." (Office Action at page 9).

As noted above, the abstract of Radwanski fails to teach or suggest a two layer absorbent core comprising a body-side absorbent layer made of open cell foam and a garment-side absorbent layer made of elastic coform as required by the claims. Also as noted above, Radwanski mentions foams in column 15 but does not teach an absorbent core having a body-side absorbent layer comprising open cell foam and a garment-side absorbent layer comprising elastic coform wherein the absorbent core has the claimed resistance to permanent creasing. Therefore, no *prima facie* case of obviousness has been established because the Examiner has not met the burden of showing that the prior art references teach or suggest all the claim limitations.

Also, as above, the Examiner adds Lee for its teaching of a packaging component not to cure the defect noted above. Thus, Applicants respectfully request that this rejection be withdrawn for at least this reason.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,
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